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TEXAS INSTRUMENTS INCORPORATED				
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EXAMINER				
WILCZEWSKI, MARY A				
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* ANTHONY J. KONECNI and GIRISH A. DIXIT

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Appeal 2009-000565  
Application 08/988,686  
Technology Center 2800

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Decided: <sup>1</sup> June 30, 2009

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Before CHARLES F. WARREN, CATHERINE Q. TIMM, and  
BEVERLY A. FRANKLIN, *Administrative Patent Judges*.

FRANKLIN, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the Decided Date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

Appellants request rehearing of our Decision of February 24, 2009. In that Decision, we sustained the Examiner's rejection of claims 21-26, 29, and 30 under 35 U.S.C. § 103 (a) as being obvious over Masamori in view of Takeyasu. We also sustained the Examiner's rejection of claims 27, 28, 31, and 32 under 35 U.S.C. § 103(a) as being obvious over Masamori in view of Takeyasu and further in view of Pan.

On page 1 of the Request for Rehearing, Appellants state:

As stated throughout the papers filed by appellants, all of the claims on appeal require the step of "providing a halogen-free gas comprised of hydrogen incorporated within a plasma into said opening in said insulating layer...to increase the reactive surface of any residual material on said exposed portion and at least partially remove said residual material". This feature is clearly not shown or suggested by Masanori.

On page 2 of the Request for Rehearing, Appellants state:

It should be noted in the fourth paragraph on page 4 of the English translation that, along with the hydrogen and argon, it is stated that "like in the past, and HF and water are created as the fluorine and the oxygen contained in the hydrogen gas and degenerated layer 6 react with each other". It follows that the etching of Masanori clearly includes a halogen, fluorine being one of the halogen elements. This fact is not discussed or explained away in the Decision. It follows that the requirements of the claims on appeal are not found in Masanori and also that the benefits derived from the subject invention cannot be obtained by utilizing the method of Masanori since a halogen element is present in the form of fluorine.

On pages 6-7 of our Decision, we addressed Appellants' assertion that the plasma of Masanori is not halogen-free. We stated the following:

As pointed out by the Examiner at the top of page 10 of the Supplemental Examiner's Answer, no gases containing a halogen are used in the plasma. The English translation of Masanori teaches that a "mixed gas comprising argon gas as a rare gas and a hydrogen gas is used (Masanori 4, fourth para. of the English translation). This dry etching step of Masanori satisfies Appellants' claim language of "providing a halogen-free gas comprised of hydrogen incorporated within a plasma." *Any chemical reactions that occur after this step do not alter the fact that Masanori begins with a plasma of a halogen-free gas comprised of hydrogen, which is what is required by Appellants' claim 21*[emphasis added].

It is self-evident from the above-mentioned excerpt from our Decision that the teachings found in the fourth paragraph of the English translation of Masanori, including parts discussed by Appellants' in their Request for Rehearing, were fully addressed in the Decision. See particularly the italicized text above. Therefore, we are not convinced of any reversible error in our Decision.

#### CONCLUSION

Appellants have not convinced us of any reversible error in our Decision. Appellants' Request for Rehearing is denied.

#### DENIED

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